

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

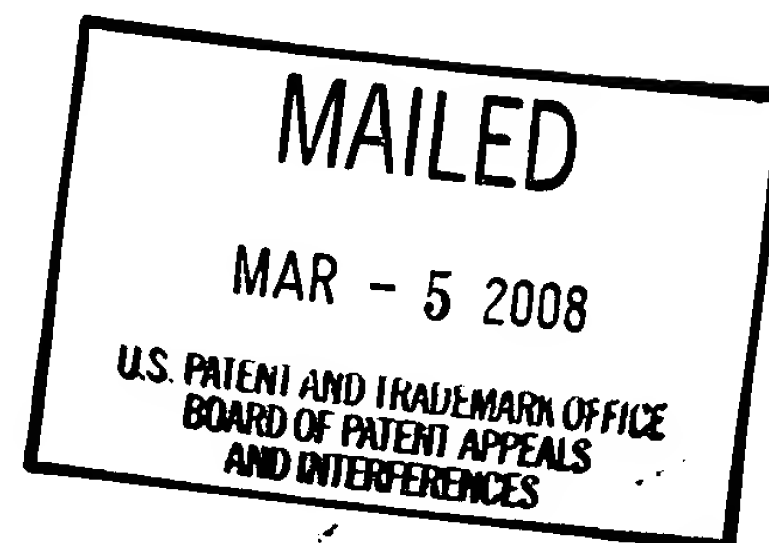
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Ex parte ROBERT MAERZ  
AND ERNEST SJO

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Application No. 09/813,808

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ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

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This application was received electronically at the Board of Patent Appeals and Interferences on February 14, 2008. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

On December 11, 2006, appellants filed an Appeal Brief. A review of the file reveals that claim 39 in the appendix of the Appeal Brief is not consistent with amended claim 39 submitted in the Amendment filed on June 7, 2006. Appropriate correction required.

In addition, an Information Disclosure Statement (IDS) was filed on October 10, 2006. A review of the Image File Wrapper reveals that the examiner has not considered the IDS. According to MPEP § 609 which states:

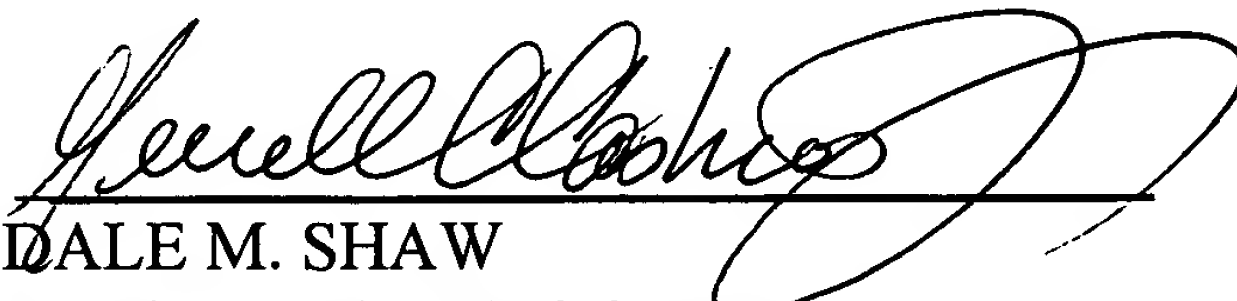
“ . . . . The Examiner must also fill in his or her name and the date the information was considered in blocks at the bottom of the PTO-1449 or PTO/SB/08A and 08B form.”

Accordingly, it is

**ORDERED** that the application is returned to the Examiner:

- 1) to correct claim 39 in the Claims Appendix;
- 2) to consider the IDS of October 10, 2006, consistent with USPTO policy; and
- 3) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By:   
DALE M. SHAW  
Chief Appeals Administrator  
(571) 272-9797

DMS/dal

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NIXON PEABODY, LLP  
401 9<sup>TH</sup> STREET, N.W.  
SUITE 900  
WASHINGTON, DC 20004-2128